

**Introduced by Senator Hertzberg
(Coauthors: Senators Beall, Galgiani, and Wieckowski)**

January 25, 2017

An act to amend Section 1463.007 of the Penal Code, and to amend Sections 12807, 13365, 40508, 40509, 40509.5, and 40903 of, and to add Sections 40500.5 and 42003.5 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 185, as introduced, Hertzberg. Vehicles: violations.

Under existing law, a judgment that a person convicted of an infraction be punished by a fine may also provide for the payment to be made within a specified time or in specified installments. Existing law requires a court, in any case when a person appears before a traffic referee or judge of the superior court for adjudication of a violation of the Vehicle Code, upon request of the defendant, to consider the defendant's ability to pay, as specified.

This bill would require the court, in any case involving an infraction under the Vehicle Code, to determine whether the defendant is indigent for purposes of determining what portion of the statutory amount of any associated fine, fee, assessment, or other financial penalties the person can afford to pay. The bill would provide that the defendant can demonstrate that he or she is indigent by providing specified information, including attesting to his or her indigent status under penalty of perjury. Because a violation thereof would be a crime, the bill would impose a state-mandated local program.

The bill would require the court to reduce the base fine and associated fees by 80% if the court establishes that the defendant is indigent, and to provide alternatives to immediate payment of the sentence, including

a payment plan option. The bill would require the court to determine the amount a defendant can afford to pay per month by using a payment calculator developed by the Judicial Council, as specified. For persons not found to be indigent, the bill would require that the monthly payment not exceed 5% of the defendant's family monthly income, as provided. For defendant's found to be indigent, the bill would require that monthly payments be \$0 until the defendant's financial circumstances change, and would require the remaining amount owed to be discharged after 48 months in the interest of justice.

Existing law authorizes any county or court to implement a "comprehensive collection program" as a separate revenue collection activity, and requires the program to meet certain criteria, one of which is that the program engages in specified activities in collecting fines or penalties. One of those activities is initiating suspensions or holds for driver's licenses, as specified.

This bill would delete initiating suspensions or holds for driver's licenses from the list of activities the program may engage in. The bill would require the program to provide a payment plan option based on the debtor's ability to pay and requires the program to notify the defendant of his or her right to an indigency determination for Vehicle Code infractions.

Existing law requires, whenever a person is arrested for any nonfelony violation of the Vehicle Code, or for a violation of an ordinance of a city or county relating to traffic offenses and he or she is not immediately taken before a magistrate, the arresting officer to prepare in triplicate a written notice to appear in court or before a person authorized to receive a deposit of bail, as specified. Existing law further requires the officer to deliver one copy of the notice to appear to the arrested person, and the arrested person in order to secure release must give his or her written promise to appear in court or before a person authorized to receive a deposit of bail.

This bill would require the court to send the defendant a reminder notice of his or her promise to appear in court and would require the reminder notice to include specified information, including an appearance date and location and the right to an indigency determination.

Existing law authorizes the court to notify the Department of Motor Vehicles when a person has failed to appear or failed to pay a fine or bail, with respect to various violations relating to vehicles. Existing law requires the department to suspend, and prohibits the department from

issuing or renewing, a person's driver's license upon receipt of one of those notices, as specified.

This bill would instead require the court to issue a notice to the defendant that he or she must appear in court within 60 days, as specified, if the person has failed to appear, and authorizes the court to notify the department only when the defendant does not appear within those 60 days. The bill would also repeal the provisions authorizing the court to notify the department of a failure to pay a fine or bail. The bill would repeal certain provisions prohibiting the department from issuing or renewing a person's driver's license upon receipt of a notice of a defendant's failure to pay, with respect to designated violations.

Existing law provides that a person willfully violating his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before a person authorized to receive a deposit of bail, or willfully failing to pay bail in installments or a certain lawfully imposed fine, as specified, is guilty of a misdemeanor.

The bill would instead provide that a person willfully violating his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before a person authorized to receive a deposit of bail is guilty of an infraction if it is on more than one case in the past 5 years. The bill would require, for the first occurrence of any of these violations, the person to be instructed to appear before a judge or a clerk of the court to schedule a new hearing date within 60 days of the willful violation. The bill would make it an infraction to fail to appear within these 60 days. By changing the definition of a crime, this bill would impose a state-mandated local program. This bill would repeal the misdemeanor for willfully failing to pay bail in installments or a lawfully imposed fine.

This bill would declare that its provisions do not alter existing law related to suspension of the privilege to operate a motor vehicle in connection with violations relating to reckless driving or driving under the influence of alcohol or drugs, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that this act shall not be interpreted to alter existing law regarding suspension of the privilege to operate a motor vehicle in connection with any of the following violations:

(a) Reckless driving, pursuant to Section 23103 of the Vehicle Code.

(b) Reckless driving proximately causing bodily injury to a person, pursuant to Sections 23104 and 23105 of the Vehicle Code.

(c) Driving under the influence of alcohol, drugs, or both, pursuant to Section 23152 of the Vehicle Code.

(d) Driving under the influence of alcohol, drugs, or both, and causing bodily injury to another person, pursuant to Section 23153 of the Vehicle Code.

SEC. 2. Section 1463.007 of the Penal Code is amended to read:

1463.007. (a) Notwithstanding any other ~~provision of~~ law, any county or court that operates a comprehensive collection program may deduct the costs of operating that program, excluding capital expenditures, from any revenues collected under that program. The costs shall be deducted before any distribution of revenues to other governmental entities required by any other ~~provision of~~ law. Any county or court operating a comprehensive collection program may establish a minimum base fee, fine, forfeiture, penalty, or assessment amount for inclusion in the program.

(b) Once debt becomes delinquent, it continues to be delinquent and may be subject to collection by a comprehensive collection program. Debt is delinquent and subject to collection by a comprehensive collection program if any of the following conditions is met:

(1) A defendant does not post bail or appear on or before the date on which he or she promised to appear, or any lawful continuance of that date, if that defendant was eligible to post and forfeit bail.

(2) A defendant does not pay the amount imposed by the court on or before the date ordered by the court, or any lawful continuance of that date.

1 (3) A defendant has failed to make an installment payment on
2 the date specified by the court.

3 (c) For the purposes of this section, a “comprehensive collection
4 program” is a separate and distinct revenue collection activity that
5 meets each of the following criteria:

6 (1) The program identifies and collects amounts arising from
7 delinquent court-ordered debt, whether or not a warrant has been
8 issued against the alleged violator.

9 (2) *For infraction violations of the Vehicle Code, the program*
10 *provides a payment plan option based on the debtor’s ability to*
11 *pay, pursuant to subdivision (a) of Section 42003.5 of the Vehicle*
12 *Code, if applicable. Notwithstanding subdivision (a), the*
13 *comprehensive collection program shall not assess an*
14 *administrative fee for entering into a payment plan or making*
15 *recurring payments pursuant to subdivision (a) of Section 42003.5.*
16 *The program is responsible for notifying the defendant of his or*
17 *her right to an indigency determination.*

18 ~~(2)~~

19 (3) The program complies with the requirements of subdivision
20 (b) of Section 1463.010.

21 ~~(3)~~

22 (4) The program engages in each of the following activities:

23 (A) Attempts telephone contact with delinquent debtors for
24 whom the program has a ~~phone~~ *telephone* number to inform them
25 of their delinquent status and payment options.

26 (B) Notifies delinquent debtors for whom the program has an
27 address in writing of their outstanding obligation within 95 days
28 of delinquency.

29 (C) Generates internal monthly reports to track collections data,
30 such as age of debt and delinquent amounts outstanding.

31 (D) Uses Department of Motor Vehicles information to locate
32 delinquent debtors.

33 (E) Accepts payment of delinquent debt by credit card.

34 ~~(4)~~

35 (5) The program engages in at least five of the following
36 activities:

37 (A) Sends delinquent debt to the Franchise Tax Board’s
38 Court-Ordered Debt Collections Program.

39 (B) Sends delinquent debt to the Franchise Tax Board’s
40 Interagency Intercept Collections Program.

- 1 ~~(C) Initiates driver's license suspension or hold actions when~~
2 ~~appropriate.~~
3 ~~(D)~~
4 (C) Contracts with one or more private debt collectors to collect
5 delinquent debt.
6 ~~(E)~~
7 (D) Sends monthly bills or account statements to all delinquent
8 debtors.
9 ~~(F)~~
10 (E) Contracts with local, regional, state, or national skip tracing
11 or locator resources or services to locate delinquent debtors.
12 ~~(G)~~
13 (F) Coordinates with the probation department to locate debtors
14 who may be on formal or informal probation.
15 ~~(H)~~
16 (G) Uses Employment Development Department employment
17 and wage information to collect delinquent debt.
18 ~~(I)~~
19 (H) Establishes wage and bank account garnishments where
20 appropriate.
21 ~~(J)~~
22 (I) Places liens on real property owned by delinquent debtors
23 when appropriate.
24 ~~(K)~~
25 (J) Uses an automated dialer or automatic call distribution
26 system to manage telephone calls.
27 ~~(d) This section shall become operative on July 1, 2012.~~
28 SEC. 3. Section 12807 of the Vehicle Code is amended to read:
29 12807. The department shall not issue or renew a driver's
30 license to any person:
31 (a) When a license previously issued to the person under this
32 code has been suspended until the expiration of the period of the
33 suspension, unless cause for suspension has been removed.
34 (b) When a license previously issued to the person under this
35 code has been revoked until the expiration of one year after the
36 date of the revocation, except where a different period of revocation
37 is prescribed by this code, or unless the cause for revocation has
38 been removed.
39 (c) When the department has received a notice pursuant to
40 *subdivision (a) of Section 40509 or subdivision (a) of Section*

1 40509.5, unless the department has received a certificate as
2 provided in those sections.

3 SEC. 4. Section 13365 of the Vehicle Code is amended to read:

4 13365. (a) Upon receipt of notification of a violation of
5 subdivision (a) ~~or (b)~~ of Section 40508, the department shall take
6 the following action:

7 (1) If the notice is given pursuant to subdivision (a) ~~or (b)~~ of
8 Section 40509, if the driving record of the person who is the subject
9 of the notice contains one or more prior notifications of a violation
10 issued pursuant to Section 40509 or 40509.5, and if the person's
11 driving privilege is not currently suspended under this section, the
12 department shall suspend the driving privilege of the person.

13 (2) If the notice is given pursuant to subdivision (a) ~~or (b)~~ of
14 Section 40509.5, and if the driving privilege of the person who is
15 the subject of the notice is not currently suspended under this
16 section, the department shall suspend the driving privilege of the
17 person.

18 (b) A suspension under this section shall not be effective before
19 a date 60 days after the date of receipt, by the department, of the
20 notice given specified in subdivision (a), and the notice of
21 suspension shall not be mailed by the department before a date 30
22 days after receipt of the notice given specified in subdivision (a).

23 The suspension shall continue until the suspended person's
24 driving record does not contain any notification of a violation of
25 subdivision (a) ~~or (b)~~ of Section 40508.

26 SEC. 5. Section 40500.5 is added to the Vehicle Code, to read:

27 40500.5. (a) (1) The court shall send the defendant a reminder
28 notice of his or her promise to appear in court. The court shall send
29 this reminder notice, via certified United State Postal Service mail,
30 return receipt requested, to the address shown on the notice to
31 appear described in subdivision (a) of Section 40500 unless the
32 defendant otherwise notifies the court of a different address.

33 (2) The court may satisfy the requirement described in paragraph
34 (1) by sending the reminder notice by regular United State Postal
35 Service mail and by sending the notice electronically, including,
36 but not limited to, by email or text message, to the defendant if he
37 or she provided an email address or telephone number to the court
38 or to the law enforcement officer at the time of signing the written
39 promise to appear described in subdivision (a) of Section 40504.

1 (3) Failure to receive the reminder notice does not relieve the
2 defendant of his or her obligation to appear in court by the date
3 stated in the notice to appear.

4 (b) In addition to information obtained from the notice to appear,
5 the reminder notice to appear shall contain at least the following
6 information:

7 (1) An appearance date and location.

8 (2) Whether a court appearance is mandatory or optional.

9 (3) The total bail amount and payment options.

10 (4) The notice about traffic school required under subdivision
11 (d) of Section 42007, if applicable.

12 (5) Notice that a traffic violator school will charge a fee in
13 addition to the administrative fee charged by the court.

14 (6) The potential consequences for failure to appear, including,
15 but not limited to, a driver's license hold or suspension, a civil
16 assessment of up to three hundred dollars (\$300), a new charge
17 for failure to appear, a warrant of arrest, or some combination of
18 these consequences, if applicable.

19 (7) The potential consequences for failure to pay a fine,
20 including, but not limited to, a civil assessment of up to three
21 hundred dollars (\$300), a new charge for failure to pay a fine, a
22 warrant of arrest, or some combination of these consequences, if
23 applicable.

24 (8) The right to an indigency determination, including clear
25 language about how the defendant can request the determination,
26 what that determination will entail, the availability of an installment
27 payment plan, the availability of a reduction of the amount owed
28 by 80 percent, and any documents needed by the court to make a
29 determination about the defendant's ability to pay.

30 (9) Notice of the option to pay bail through community service
31 and installment plans.

32 (10) Contact information for the court, including the court's
33 Internet Web site.

34 (11) Information regarding trial by declaration, informal trial,
35 if available, and telephone or Internet Web site scheduling options,
36 if available.

37 (12) Requirements and procedures for correctable violations.

38 (c) After a case has been adjudicated, the court shall send the
39 defendant a reminder notice regarding payment of fines no later
40 than 30 days before the payment deadline. The court shall send

1 this reminder notice to the address shown on the notice to appear
2 unless the defendant otherwise notifies the court of a different
3 address.

4 (d) In addition to information obtained from the notice to appear,
5 the reminder notice to pay shall contain at least the following
6 information:

7 (1) The total payment due and the fine payment deadline.

8 (2) Clear instructions about how the defendant can make
9 payments.

10 (3) Clear instructions about how the defendant can request an
11 extension of the fine payment deadline.

12 (4) The potential consequences for failure to pay a fine,
13 including, but not limited to, a civil assessment of up to three
14 hundred dollars (\$300), a new charge for failure to pay a fine, a
15 warrant of arrest, or some combination of these consequences, if
16 applicable.

17 (5) The right to request an indigency determination if there are
18 changed circumstances that can affect the defendant's ability to
19 pay, including language about how the defendant can request the
20 determination, what that determination will entail, the availability
21 of an installment payment plan or any other available alternative,
22 including, but not limited to, community service, and the
23 submission of any documents needed by the court to make a
24 determination about the defendant's ability to pay.

25 (6) Contact information for the court, including the court's
26 Internet Web site.

27 (e) If the defendant willfully defaults on payment after coming
28 into compliance with an installment payment plan, the court shall
29 send the defendant a notice that he or she has failed to make one
30 or more payments and has 60 days to either resume making
31 payments or to request that the court modify the payment amount.
32 The court shall send this notice to all of the defendant's known
33 mailing addresses, including, but not limited to, the address on the
34 notice to appear and the last known address recorded by the
35 Department of Motor Vehicles. This notice shall contain the
36 following information:

37 (1) The defendant's right to request a modification of the
38 installment payment.

39 (2) The availability of an installment payment plan.

40 (3) The defendant's right to request an indigency determination.

(4) Clear language about how the defendant can request an indigency determination and what that determination will entail.

(5) Documents needed by the court to make an indigency determination.

(f) (1) If the court refers a case to a comprehensive collection program, as described in Section 1463.007 of the Penal Code, as delinquent debt, the comprehensive collection program shall send a notice to the defendant containing the following information:

(A) The availability of an installment payment plan.

(B) The defendant's right to request an indigency determination.

(C) Clear language about how the defendant can request an indigency determination and what that determination will entail.

(D) Documents needed by the court to make an indigency determination.

(2) If the case is unadjudicated, the comprehensive collection program shall send a notice to the defendant containing information about how the defendant can schedule a hearing for adjudication of the underlying charges or charges without payment of the bail amount.

SEC. 6. Section 40508 of the Vehicle Code is amended to read:

40508. (a) (1) A person willfully violating his or her written promise to appear ~~or on more than one case within the past five years, or willfully violating a lawfully granted continuance of his or her promise to appear in court or before a person authorized to receive a deposit of bail on more than one case in the past five years, is guilty of a misdemeanor~~ or an infraction regardless of the disposition of the charge upon which he or she was originally arrested.

~~(b) A person willfully failing to pay bail in installments as agreed to under Section 40510.5 or a lawfully imposed fine for a violation of a provision of this code or a local ordinance adopted pursuant to this code within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the bail or fine is due is guilty of a misdemeanor regardless of the full payment of the bail or fine after that time.~~

(2) A person willfully violating his or her written promise to appear for the first time, or willfully violating a lawfully granted continuance of his or her promise to appear in court or before a person authorized to receive a deposit of bail for the first time, is not guilty of an infraction. The person shall be instructed to appear

1 *before a judge or a clerk of the court to schedule a new hearing*
2 *date within 60 days of the willful violation. A person failing to*
3 *appear within the 60 days is guilty of an infraction.*

4 ~~(e)~~

5 (b) A person willfully failing to comply with a condition of a
6 court order for a violation of this code, other than for failure to
7 appear or failure to pay a fine, is guilty of a misdemeanor,
8 regardless of his or her subsequent compliance with the order.

9 ~~(d)~~

10 (c) If a person convicted of an infraction fails to pay bail in
11 installments as agreed to under Section 40510.5, or a fine or an
12 installment thereof, within the time authorized by the court, the
13 court may, except as otherwise provided in this subdivision,
14 impound the person's driver's license and order the person not to
15 drive for a period not to exceed 30 days. Before returning the
16 license to the person, the court shall endorse on the reverse side
17 of the license that the person was ordered not to drive, the period
18 for which that order was made, and the name of the court making
19 the order. If a defendant with a class C or M driver's license
20 satisfies the court that impounding his or her driver's license and
21 ordering the defendant not to drive will affect his or her livelihood,
22 the court shall order that the person limit his or her driving for a
23 period not to exceed 30 days to driving that is essential in the
24 court's determination to the person's employment, including the
25 person's driving to and from his or her place of employment if
26 other means of transportation are not reasonably available. The
27 court shall provide for the endorsement of the limitation on the
28 person's license. The impounding of the license and ordering the
29 person not to drive or the order limiting the person's driving does
30 not constitute a suspension of the license, but a violation of the
31 order constitutes contempt of court.

32 SEC. 7. Section 40509 of the Vehicle Code is amended to read:

33 40509. (a) Except as required under subdivision~~(e)~~ (b) of
34 Section 40509.5, if ~~any~~ a person has violated a written promise to
35 appear or a lawfully granted continuance of his or her promise to
36 appear in court or before the person authorized to receive a deposit
37 of bail, or violated an order to appear in court, including, but not
38 limited to, a written notice to appear issued in accordance with
39 Section 40518, the magistrate or clerk of the court ~~may give notice~~
40 ~~of the failure to appear to the department~~ shall issue a notice to

1 *the defendant that he or she is required to appear in court within*
2 *60 days for any violation of this code, or any violation that can be*
3 *heard by a juvenile traffic hearing referee pursuant to Section 256*
4 *of the Welfare and Institutions Code, or any violation of any other*
5 *statute relating to the safe operation of a vehicle, except violations*
6 *not required to be reported pursuant to paragraphs (1), (2), (3), (6),*
7 *and (7) of subdivision (b) of Section 1803. The notice shall include*
8 *notice of the defendant's right to an indigency determination. If*
9 *the defendant does not appear within 60 days of the original date,*
10 *the magistrate or clerk of the court may give notice of the failure*
11 *to appear to the department for any violation of this code, or any*
12 *violation that can be heard by a juvenile traffic hearing referee*
13 *pursuant to Section 256 of the Welfare and Institutions Code, or*
14 *any violation of any other statute relating to the safe operation of*
15 *a vehicle, except violations not required to be reported pursuant*
16 *to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section*
17 *1803. If thereafter the case in which the promise was given is*
18 *adjudicated or the person who has violated the court order appears*
19 *in court or otherwise satisfies the order of the court, the magistrate*
20 *or clerk of the court hearing the case shall sign and file with the*
21 *department a certificate to that effect. effect and any driver's license*
22 *hold shall be removed. The court shall not issue a bench warrant*
23 *for a failure to appear.*

24 ~~(b) If any person has willfully failed to pay a lawfully imposed~~
25 ~~fine within the time authorized by the court or to pay a fine~~
26 ~~pursuant to subdivision (a) of Section 42003, the magistrate or~~
27 ~~clerk of the court may give notice of the fact to the department for~~
28 ~~any violation, except violations not required to be reported pursuant~~
29 ~~to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section~~
30 ~~1803. If thereafter the fine is fully paid, the magistrate or clerk of~~
31 ~~the court shall issue and file with the department a certificate~~
32 ~~showing that the fine has been paid.~~

33 (e)

34 (b) (1) Notwithstanding subdivisions (a) and (b), subdivision
35 (a), the court may notify the department of the total amount of
36 bail, fines, assessments, and fees authorized or required by this
37 code, including Section 40508.5, which that are unpaid by any
38 person.

1 (2) Once a court has established the amount of bail, fines,
2 assessments, and fees, and notified the department, the court shall
3 not further enhance or modify that amount.

4 (3) This subdivision applies only to violations of this code that
5 do not require a mandatory court appearance, are not contested by
6 the defendant, and do not require proof of correction certified by
7 the court.

8 ~~(d)~~

9 (c) With respect to a violation of this code, this section is
10 applicable to any court ~~which~~ *that* has not elected to be subject to
11 the notice requirements of subdivision ~~(b)~~ (c) of Section 40509.5.

12 ~~(e)~~

13 (d) Any violation subject to Section 40001, which is the
14 responsibility of the owner of the vehicle, shall not be reported
15 under this section.

16 SEC. 8. Section 40509.5 of the Vehicle Code is amended to
17 read:

18 40509.5. (a) Except as required under subdivision ~~(e)~~, (b), if,
19 with respect to an offense described in subdivision ~~(e)~~, (d), a person
20 has violated his or her written promise to appear or a lawfully
21 granted continuance of his or her promise to appear in court or
22 before the person authorized to receive a deposit of bail, or violated
23 an order to appear in court, including, but not limited to, a written
24 notice to appear issued in accordance with Section 40518, the
25 magistrate or clerk of the court ~~may give notice of the failure to~~
26 ~~appear to the department~~ *shall issue a notice to the defendant that*
27 *he or she is required to appear in court within 60 days* for a
28 violation of this code, a violation that can be heard by a juvenile
29 traffic hearing referee pursuant to Section 256 of the Welfare and
30 Institutions Code, or a violation of any other statute relating to the
31 safe operation of a vehicle, except violations not required to be
32 reported pursuant to paragraphs (1), (2), (3), (6), and (7) of
33 subdivision (b) of Section 1803. *The notice shall include notice*
34 *of the defendant's right to an indigency determination. If the*
35 *defendant does not appear within 60 days of the original date, the*
36 *magistrate or clerk of the court may give notice of the failure to*
37 *appear to the department for any violation of this code, or any*
38 *violation that can be heard by a juvenile traffic hearing referee*
39 *pursuant to Section 256 of the Welfare and Institutions Code, or*
40 *any violation of any other statute relating to the safe operation of*

1 *a vehicle, except violations not required to be reported pursuant*
2 *to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section*
3 *1803. If thereafter the case in which the promise was given is*
4 *adjudicated or the person who has violated the court order appears*
5 *in court and satisfies the order of the court, the magistrate or clerk*
6 *of the court hearing the case shall sign and file with the department*
7 *a certificate to that effect. effect and any driver's license hold shall*
8 *be removed. The court shall not issue a bench warrant for a failure*
9 *to appear, except as provided in subdivision (d).*

10 ~~(b) If, with respect to an offense described in subdivision (c), a~~
11 ~~person has willfully failed to pay a lawfully imposed fine, or bail~~
12 ~~in installments as agreed to under Section 40510.5, within the time~~
13 ~~authorized by the court or to pay a fine pursuant to subdivision (a)~~
14 ~~of Section 42003, the magistrate or clerk of the court may give~~
15 ~~notice of the fact to the department for a violation, except violations~~
16 ~~not required to be reported pursuant to paragraphs (1), (2), (3), (6),~~
17 ~~and (7) of subdivision (b) of Section 1803. If thereafter the fine or~~
18 ~~bail is fully paid, the magistrate or clerk of the court shall issue~~
19 ~~and file with the department a certificate showing that the fine or~~
20 ~~bail has been paid.~~

21 (e)

22 (b) If a person charged with a violation of Section 23152 or
23 23153, or Section 191.5 of the Penal Code, or subdivision (a) of
24 Section 192.5 of that code has violated a lawfully granted
25 continuance of his or her promise to appear in court or is released
26 from custody on his or her own recognizance and fails to appear
27 in court or before the person authorized to receive a deposit of
28 bail, or violated an order to appear in court, the magistrate or clerk
29 of the court shall give notice to the department of the failure to
30 appear. If thereafter the case in which the notice was given is
31 adjudicated or the person who has violated the court order appears
32 in court or otherwise satisfies the order of the court, the magistrate
33 or clerk of the court hearing the case shall prepare and forward to
34 the department a certificate to that effect.

35 (d)

36 (c) Except as required under subdivision (e), (b), the court shall
37 mail a courtesy warning notice to the defendant by first-class mail
38 at the address shown on the notice to appear, at least 10 60 days
39 before sending a notice to the department under this section.

40 (e)

1 (d) If the court notifies the department of a failure to appear ~~or~~
2 ~~pay a fine or bail pursuant to subdivision (a) or (b); pursuant to~~
3 ~~subdivision (a),~~ no arrest warrant shall be issued for an alleged
4 violation of subdivision (a) ~~or (b)~~ of Section 40508, unless one of
5 the following criteria is met:

6 (1) The alleged underlying offense is a misdemeanor or felony.

7 (2) The alleged underlying offense is a violation of any provision
8 of Division 12 (commencing with Section 24000), Division 13
9 (commencing with Section 29000), or Division 15 (commencing
10 with Section 35000), required to be reported pursuant to Section
11 1803.

12 (3) The driver's record does not show that the defendant has a
13 valid California driver's license.

14 (4) The driver's record shows an unresolved charge that the
15 defendant is in violation of his or her written promise to appear
16 for one or more other alleged violations of the law.

17 ~~(f)~~

18 (e) Except as required under subdivision ~~(e)~~, (b), in addition to
19 the proceedings described in this section, the court may elect to
20 notify the department pursuant to subdivision ~~(e)~~ (b) of Section
21 40509.

22 ~~(g)~~

23 (f) This section is applicable to courts that have elected to
24 provide notice pursuant to subdivision ~~(b)~~, (c). The method of
25 commencing or terminating an election to proceed under this
26 section shall be prescribed by the department.

27 ~~(h)~~

28 (g) A violation subject to Section 40001, that is the
29 responsibility of the owner of the vehicle, shall not be reported
30 under this section.

31 SEC. 9. Section 40903 of the Vehicle Code is amended to read:

32 40903. (a) Any person who fails to appear as provided by law
33 *and who has not shown good cause for a failure to appear within*
34 *20 days of the appearance date* may be deemed to have elected to
35 have a trial by written declaration upon any alleged infraction, as
36 charged by the citing officer, involving a violation of this code or
37 any local ordinance adopted pursuant to this code.

38 (b) Notwithstanding Division 10 (commencing with Section
39 1200) of the Evidence Code, testimony and other relevant evidence
40 may be introduced in the form of a notice to appear issued pursuant

1 to Section 40500, a notice of parking violation issued pursuant to
2 Section 40202, a notice of delinquent parking violation issued
3 pursuant to Section 40206, a business record or receipt, a sworn
4 declaration of the arresting officer, or a written statement or letter
5 signed by the defendant.

6 SEC. 10. Section 42003.5 is added to the Vehicle Code, to
7 read:

8 42003.5. (a) (1) In any case involving an infraction under this
9 code, the court shall determine whether the defendant is indigent
10 for purposes of establishing the amount he or she can afford to
11 pay. For purposes of this section, a defendant is indigent if any of
12 the following criteria is satisfied:

13 (A) The defendant's net income is at or below 250 percent of
14 the federal poverty level by family size.

15 (B) The defendant receives benefits or services from
16 CalWORKs, CalFresh, Supplemental Security Income (SSI), State
17 Supplemental Payment (SSP), CAPI, IHSS, General Relief (GR),
18 General Assistance (GA), Medi-Cal, extended foster care benefits,
19 child care assistance administered by the State Department of
20 Education, Unemployment Insurance, or health care provided
21 under Part 5 (commencing with Section 17000) of Division 9 of
22 the Welfare and Institutions Code.

23 (C) The defendant, as individually determined by the court,
24 cannot pay court fees without using money that normally would
25 pay for the common necessities of life for the defendant and his
26 or her family.

27 (2) The defendant can demonstrate that he or she is indigent by
28 providing any of the following information:

29 (A) Proof of income from a pay stub, bank statement, rent and
30 grocery receipts, or other form of evidence of earnings.

31 (B) Eligibility cards or electronic benefit cards or other forms
32 of evidence for the programs described in subparagraph (B) of
33 paragraph (1).

34 (C) Attesting to his or her indigent status under penalty of
35 perjury.

36 (b) (1) If the court establishes that the defendant is indigent for
37 purposes of this section, the court shall reduce the base fine, penalty
38 assessments, any state or local fees, and any civil assessments by
39 80 percent on all charges pending against the defendant.

1 (2) If a defendant's indigent status is found to have been
2 willfully fraudulent, his or her fines and fees reduction shall be
3 overturned and the full amount of fines and fees shall be restored.

4 (c) This section does not limit the discretion of a judicial officer
5 to suspend or reduce fines and fees where appropriate or to dismiss
6 actions in the interest of justice under Section 1385 of the Penal
7 Code.

8 (d) The court shall conduct the indigency determination as soon
9 as possible but no later than 20 days prior to determining whether
10 a person willfully failed to pay. Defendants whose cases are
11 adjudicated in court shall receive a determination on the same day
12 as their court appearance. A person who is indigent shall not be
13 determined to have willfully failed to pay a fine.

14 (e) The court shall provide alternatives to immediate payment
15 of the sentence for any infraction violation of this code, including
16 a reasonable payment plan option for the remaining amount owed
17 after any reduction due to indigency or other reasons are applied.
18 "Reasonable payment plan" for a person who is not found to be
19 indigent means monthly payments that are not more than 5 percent
20 of a defendant's family monthly income, excluding deductions for
21 essential living expenses. "Essential living expenses" means, for
22 purposes of this subdivision, expenses for rent or house payment
23 and maintenance, food and household supplies, utilities and
24 telephone, clothing, medical and dental payments, insurance, school
25 or child care, child or spousal support, transportation and auto
26 expenses, including insurance, gas, and repairs, installment
27 payments, laundry and cleaning, and other extraordinary expenses.
28 A defendant who is found to be indigent under subdivision (a)
29 above shall be placed on a zero dollar (\$0) payment per month
30 until his or her financial circumstances change. If, after 48 months,
31 an indigent defendant's financial circumstances have not changed,
32 the court shall, in the interest of justice, discharge the remaining
33 amount owed. The court shall determine the amount a defendant
34 can afford to pay per month by using a payment calculator to be
35 developed by the Judicial Council. This calculator shall be
36 developed in consultation with stakeholders, including advocates
37 for indigent defendants. The Judicial Council shall revise the
38 calculator annually to reflect any increase in the California
39 Necessities Index. An administrative fee shall not be assessed to
40 enter into a payment plan or alternatives to payment.

(f) A defendant found indigent under subdivision (a) whose fines and fees have been reduced or who has entered into a reasonable payment plan under subdivision (e), or both, shall inform the court if his or her income substantially changes before the fines and fees are completely paid or discharged in the interest of justice, whichever occurs first. If a defendant does not inform the court of any changes in their income, the court shall presume that the defendant remains indigent.

(g) If the court provides community service as an alternative to payment of the fines and fees, any calculation of the requisite number of hours must occur after the appropriate reductions due to indigency have been made pursuant to subdivision (e). A sign-up fee shall not be assessed in order to participate in community service. Community service shall include participation in programs required to receive public benefits, mental health services, job training, educational programs, or other social services programs deemed eligible by the court.

(h) A person who enters into a payment plan with the court and whose net income is subsequently reduced may, at any time after the judgment, request from the court a change in the payment plan due to his or her inability to pay the payment currently required.

(i) The court shall issue and file with the Department of Motor Vehicles the appropriate certificate pursuant to Section 40509 for any person who is determined to be indigent and enrolls in a reasonable payment plan. The certificate shall indicate that the participant has appeared in court, made a payment, or otherwise satisfied the court, if the driving privilege of that participant was suspended pursuant to Section 13365.

(j) The court shall issue and file with the Department of Motor Vehicles the appropriate certificate pursuant to Section 40509 for any person in good standing in a comprehensive collection program pursuant to subdivision (c) of Section 1463.007 of the Penal Code demonstrating that the person has appeared in court, made a payment, or otherwise satisfied the court, if the driving privilege was suspended pursuant to Section 13365.

(k) A person who has missed the deadline to pay or appear on a citation shall be granted an ability to pay determination that meets the requirements above, without first paying any bail, fine, or fee. If thereafter the person enters into or resumes a payment plan, the magistrate or clerk of the court hearing the case shall sign and file

1 with the department a certificate to that effect and any driver's
2 license hold shall be removed.

3 (l) The defendant may request at any time that the court review
4 the payment plan if the defendant believes there was an error in
5 the plan's calculation. The court shall affirm, reverse, or modify
6 any such judgment or order or direct a new trial or further
7 proceeding.

8 SEC. 11. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.